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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,415	04/12/2001	Robert J. Kamper	AUS920010080US1	1589
35525	7590	08/29/2005	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			BORLINGHAUS, JASON M	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/833,415

Applicant(s)

KAMPER ET AL.

Examiner

Jason M. Borlinghaus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/23/01</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1 - 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodie (Bodie, Zvi, Kane, Alex & Marcus, Alan J. Investments. 3<sup>rd</sup> Edition. McGraw-Hill Companies. 1996) in view of Newsbytes ('Audible Objects' Have Virtual Reality Apps. Newsbytes. September, 25, 1992.)

**Regarding Claim 1**, Bodie discloses a method for determining the performance of an investment vehicle (one of many portfolios) within a plurality of investment vehicles (large investment fund) in a market, the method comprising the steps of:

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- receiving a current performance indication (alpha) of the investment vehicle (one of many portfolios) within the plurality of investment vehicles (large investment fund). (see pp. 778 – 785).

Bodie does not teach a method for annunciating performance of an investment vehicle, the method comprising the steps of:

- matching the current performance indication of the investment vehicle with a predetermined audible signature; and
- transmitting the predetermined audible signature based on results of the matching.

Newsbyte discloses a method comprising the steps of:

- matching the data with a predetermined audible signature (synthesized sound); and
- transmitting (broadcasting) the predetermined audible signature (synthesized sound) based on results of the matching (data/sound parameters). (“The data controls the parameters of the synthesized sound; as data values increase or decrease, sound characteristics such as pitch, brightness, or speed change accordingly. In one demonstration, various sounds represented stocks, bonds and other historical market data, creating an auditory ‘picture’ of four-and-a-half years of market ups and downs”).

Neither Bodie nor Newsbyte teach that the determination of the current performance indication is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated

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the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie by incorporating an audible signature, as was done by Newsbyte, to allow those that were visually impaired to be able to ascertain the performance of their investment.

**Regarding Claim 2**, Bodie discloses a method wherein the investment vehicle (portfolio) includes at least one of an equity (securities – see pp. 56 - 59), a bond (debt securities – pp. 46 – 56), a certificate of deposit (money market securities – p. 43), and an annuity (pp. 898 – 900).

**Regarding Claim 3**, Bodie discloses a method wherein the current performance indication (capital gains) is a value (appreciation in price) of the investment vehicle (security/bond). (supra – p. 58).

**Regarding Claim 4**, neither Bodie nor Newsbyte teach a method wherein the value of the investment vehicle (bond/security) is one of an increase in value of the investment vehicle, decrease in value the investment vehicle and no change in value of the investment vehicle.

While neither Bodie nor Newsbyte explicitly state the possible directions for movement in the value of the investment vehicle, it is well known in the art that the value of the investment vehicle can have only three possible movements – upward, downward or no change.

**Regarding Claim 5**, Bodie discloses a method wherein the value (price) of the investment vehicle (bond/security) are expressed in one fraction format (see figure 2.10, p. 58) and a decimal format (see figure 2.2, p. 41) establishing value and price.

**Regarding Claim 6**, neither Bodie nor Newsbyte discloses a method wherein the investment vehicle within the plurality of investment vehicles is one of a publicly traded investment vehicle and a privately held investment vehicle in at least one of a major stock exchange and an over a counter stock exchange.

The concept of a portfolio consisting of a variety of investment vehicles is old and well known in the art of financial management. Furthermore, the concept of a publicly traded investment vehicle (public offering – see Bodie, p. 79), a privately held investment vehicle (private placement – see Bodie, p. 79), a vehicle from a major stock exchange (see Bodie, p. 81 – 84) and a vehicle from an over-the-counter stock exchange (see Bodie, p. 84 – 85) are also old and well know in the art of financial management.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any combination of existing investment vehicles that the inventor desired.

**Regarding Claim 7**, neither Bodie nor Newsbyte teach a method wherein receiving a current performance indication of the investment vehicle within the plurality of investment vehicles is received by at least one of a buyer the investment vehicle and a seller of the investment vehicle.

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The concept of a current performance indication (price) of the investment (security/bond) being received by at least one buyer and seller of the investment vehicle is old and well known in the art of financial management. The Wall Street Journal, a source of current performance indicators (see Bodie, figure 2.10, p. 58), publishes current performance indicators (prices) making them available to both buyers and sellers.

Neither Bodie nor Newsbyte teach that the transmission and reception of the current performance indication is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

**Regarding Claim 8**, Bodie discloses a method wherein the current performance indication of the investment vehicle includes at least one of evaluating performance of the investment vehicle (utilizing performance evaluation equations – appendix, inside back cover) and analyzing performance of the investment vehicle (calculating alpha – see p. 247).

**Regarding Claim 9**, Bodie discloses a method wherein evaluating performance (price) of the investment vehicle includes at least one of criteria for buying the investment vehicle (limit order – see p. 88) and criteria for selling the investment vehicle (limit order – see p. 88).

**Regarding Claim 10**, Bodie discloses a method wherein criteria

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for buying the investment vehicle and criteria selling the investment vehicle includes a target (specified) price of the investment vehicle. ("Investors can issue limit orders, whereby they specify prices at which they are willing to buy and sell a security." – see p. 88).

**Regarding Claim 11**, Bodie discloses a method wherein analyzing performance of the investment vehicle includes at least one of price to earnings ratio of the investment vehicle (see p. 536 - 538), dividend paid for a share of the investment vehicle (listed on stock market listings – see figure 2.10, p. 58) and a rate of return on investment (expected rate of return – see p. 150) of the investment vehicle.

Neither Bodie nor Newsbyte teach that the analysis is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

**Regarding Claim 12**, Bodie does not teach a method wherein the predetermined audible signature is stored in a memory.

Newbyte discloses a method wherein a predetermined audible signature is used. ("The data controls the parameters of the synthesized sound; as data values increase or decrease, sound characteristics such as pitch, brightness, or speed change accordingly. In one demonstration, various sounds represented



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stocks, bonds and other historical market data, creating an auditory 'picture' of four-and-a-half years of market ups and downs").

Neither Bodie nor Newsbyte teach that the analysis and evaluation is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ/192.

Furthermore, automation of a manual process would necessitate the incorporation of such components and elements, such as an input interface, a system memory, a processor, and an output interface, in order to achieve such automation. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have utilized existing and well-known technology at the time that the invention was made to automate the above disclosed method and/or system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte by incorporating a memory in which to store audible signature to allow for computerized automation of the method.

**Regarding Claim 13**, Bodie does not teach a method wherein transmitting the predetermined audible signature is transmitted from at least one of a cellular telephone, a personal digital assistant, a personal computer, a notebook computer and a paging device.

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Newsbyte discloses a method wherein transmitting (broadcasting) the predetermined audible signature is transmitted (broadcast) from a personal computer (Macintosh IIfx). ("The software was demonstrated on a Macintosh IIfx).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow the transmission of the predetermined audible signature from a cellular telephone, a personal digital assistant, a notebook computer and a paging device, to allow the method to utilize existing technology and computerized devices to transmit the audible signature.

Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any existing transmission technology that the inventor desired for transmission of the audible signature.

**Regarding Claims 14 - 15**, neither Bodie nor Newsbyte teach a method wherein:

- the audible signature is a musical instrument digital interface (MIDI) standard; and
- the MIDI standard is a plurality of MIDI standards.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any existing MIDI standard that the inventor desired for transmission of the audible signature.

**Regarding Claims 16 – 17**, Bodie does not teach a method wherein:

- the audible signature changes pitch as the current performance of the investment vehicle changes; and
- the change in pitch is a higher pitch as the current performance increases and a lower pitch as the current performance decreases.

Newsbyte discloses a method wherein:

- the audible signature (synthesized sound) changes pitch as the current performance of the investment vehicle (stocks) changes. (“The data controls the parameters of the synthesized sound; as data values increase or decrease, sound characteristics such as pitch, brightness, or speed change accordingly. In one demonstration, various sounds represented stocks, bonds and other historical market data, creating an auditory ‘picture’ of four-and-a-half years of market ups and downs”).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any correlation between the pitch of the synthesized sound and current performance that the inventor desired.

**Regarding Claim 18**, further system claim would have been obvious from method claim rejected above, Claim 1, and is therefore rejected using the same art and rationale.

Neither Bodie nor Newsbyte teach that the above financial monitoring method and annunciation system is automatic. However, it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Furthermore, automation of a manual process would necessitate the incorporation of such components and elements, such as an input interface, a system memory, a processor, and an output interface, in order to achieve such automation. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have utilized existing and well-known technology at the time that the invention was made to automate the above disclosed method and/or system.

**Regarding Claims 19 – 21**, neither Bodie nor Newsbyte teach a system wherein:

- the processing unit includes a plurality of processors;
- a first processing unit within the plurality of processors is located at a server machine; and
- a second processing unit within the plurality of processors is located at a client machine.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any server/client architecture that the inventor desired.

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**Regarding Claims 22 – 38**, further system claims would have been obvious from method claims rejected above, Claims 1 - 17, and are therefore rejected using the same art and rationale.

**Regarding Claim 39 - 40**, further system claims would have been obvious from method claim rejected above, Claim 1, and is therefore rejected using the same art and rationale.

Neither Bodie nor Newsbyte teach that the above financial monitoring method and annunciation system is automatic. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Additionally, automation of a manual process would necessitate the incorporation of such components and elements, such as an input interface, a system memory, a processor, and an output interface, in order to achieve such automation. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to have utilized existing and well-known technology at the time that the invention was made to automate the above disclosed method and/or system.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bodie and Newsbyte to allow for any server/client architecture that the inventor desired.

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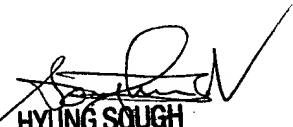
**Regarding Claims 41 – 48**, further product claims would have been obvious from method claims rejected above, Claims 1, 3, 8 – 9 and 14 – 17, respectively, and are therefore rejected using the same art and rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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